

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	CIVIL NO.
)	
GREATER LAWRENCE SANITARY)	
DISTRICT,)	
)	
Defendant.)	
)	
_____)	

COMPLAINT

INTRODUCTION

1. This is an action for injunction and civil penalties brought by the United States of America on behalf of the United States Environmental Protection Agency ("EPA") against the Greater Lawrence Sanitary District, North Andover, Massachusetts ("GLSD") pursuant to Sections 309(b) and (d) of the Clean Water Act ("CWA" or the "Act"), 33 U.S.C. §§ 1319(b) & (d), for discharges of pollutants into the Spicket and Merrimack Rivers.

2. The claims arise from GLSD's violation of Section 301(a) of the CWA, 33 U.S.C. § 1311(a) as a result of GLSD's failure to comply with its National Pollutant Discharge Elimination System ("NPDES") permit issued in accordance with Section 402 of the CWA, 33 U.S.C. § 1342.

3. This Court has jurisdiction over the subject matter of this action pursuant to Sections 309(b) and (d) of the CWA, 33 U.S.C. §§ 1319(b) & (d) and pursuant to 28 U.S.C. §§ 1331, 1345 & 1355.

4. Venue is proper in this District pursuant to Section 309(b) of the CWA, 33 U.S.C. § 1319(b), 28 U.S.C. §§ 1391(b) & (c), and 28 U.S.C. § 1395.

5. Notice of the commencement of this action has been given to the Commonwealth of Massachusetts pursuant to Section 309(b) of the CWA, 33 U.S.C. § 1319(b).

DEFENDANT

6. GLSD is a “water pollution abatement district” incorporated under the laws of the Commonwealth of Massachusetts.

7. GLSD is a “municipality” within the meaning of Section 502(4) of the Act, 33 U.S.C. § 1362(4).

8. GLSD is a “person” within the meaning of Section 502(5) of the Act, 33 U.S.C. § 1362(5).

JOINDER OF NECESSARY PARTY

9. Section 309(e) of the CWA requires that a State be joined as a party to the litigation when the United States sues a municipality of the State. The Commonwealth of Massachusetts intends to intervene in this action as a co-plaintiff, and the United States supports such intervention.

NPDES PERMIT AND CLEAN WATER ACT REQUIREMENTS

10. Section 301(a) of the Act, 33 U.S.C. § 1311(a), prohibits the discharge of pollutants into navigable waters of the United States except in compliance with the terms and conditions of an NPDES permit issued pursuant to CWA § 402, 33 U.S.C. § 1342.

11. Section 402 of the Act, 33 U.S.C. § 1342, provides that the Administrator of EPA may issue permits under the NPDES program for the discharge of any pollutant into the

navigable waters of the United States upon such specific terms and conditions as the Administrator may prescribe.

12. On February 26, 1998, pursuant to Section 402 of the Act, 33 U.S.C. § 1342, NPDES Permit No. MA0100447 ("the Permit") was re-issued to GLSD for discharges from GLSD's wastewater treatment plant and combined sewer overflow outfalls to the Merrimack and Spicket Rivers.

13. GLSD's combined sewer overflow outfalls are "point sources" within the meaning of Section 502(14) of the Act, 33 U.S.C. § 1362(14).

14. The Merrimack and Spicket Rivers are "navigable waters" within the meaning of Section 502(7) of the Act, 33 U.S.C. § 1362(7).

15. Section 309(b) of the Act, 33 U.S.C. § 1319(b), authorizes the Administrator to commence a civil action for appropriate relief, including a permanent or temporary injunction, when any person is in violation of, *inter alia*, Section 301 of the Act, 33 U.S.C. § 1311, or is in violation of any permit condition or limitation contained in an NPDES permit issued pursuant to Section 402 of the Act, 33 U.S.C. § 1342.

15. Pursuant to Sections 309(b) and (d) of the CWA, 33 U.S.C. §§ 1319(b) and (d) and the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701, the Defendant is subject to injunctive relief and the assessment of civil penalties not to exceed \$27,500 per day for each violation of the Permit and the CWA occurring between January 31, 1997 and March 15, 2004, and \$32,500 per day for each violation of the Permit and the CWA occurring after March 15, 2004. All violations at issue in this Complaint occurred after January 31, 1997.

16. At all times material to this complaint, GLSD's NPDES permit has provided that wet-weather combined sewer overflow discharges must not cause violations of state water quality standards.

VIOLATIONS

17. Since at least October 8, 1996, during certain rainfall events, GLSD has discharged wastewater from its combined sewer overflow outfalls that caused violations of state water quality standards in the Merrimack and Spicket Rivers.

18. The wastewater that GLSD discharged to the Merrimack and Spicket Rivers from its combined sewer overflow outfalls during wet-weather events contained "pollutants" within the meaning of Section 502(6) of the Act, 33 U.S.C. § 1362(6).

19. By discharging wastewater that caused violations of water quality standards in the Merrimack and Spicket Rivers in violation of its NPDES permit, GLSD violated Section 301(a) of the Act, 33 U.S.C. § 1311(a).

RELIEF SOUGHT

The United States requests that this Court grant the following relief:

1. Order GLSD to eliminate discharges from its collection system that cause violations of water quality standards in the Merrimack and Spicket Rivers;
2. Order GLSD to undertake a program to achieve permanent and consistent compliance with all terms and conditions of its NPDES Permit, the Act, and the regulations promulgated thereunder;
3. Order GLSD to pay a civil penalty not to exceed \$27,500 per day for each violation occurring between January 31, 1997 and March 15, 2004, and \$32,500 per day for each violation occurring after March 15, 2004;

4. Award the United States its costs in the action; and
5. Grant such other relief as the Court deems just and proper.

Respectfully submitted,

For the United States of America,

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